

REMARKS

Claims 1-68 have been canceled. New claims 69-120 have been added.

This response is being submitted with a Request for Continued Examination (RCE).

5 Entry of this amendment prior to initial examination is respectfully requested.

It is not believed that any fees are necessary at this time. However, in the event fees are required, Applicants authorize the Commissioner to take any necessary fees, including those under 37 CFR 1.16 and 1.17, from deposit account 50-0913.

10 **A Brief Review of One Embodiment of Applicants' Invention**

In one embodiment of Applicants' invention, a gaming device has a moveable game element that is located in a display area and is moveable in at least a first and second manner. A controller is located in the housing and is in communication with the moveable game element. The controller determines a game outcome, which may be a winning or losing outcome. The
15 controller preferably moves the moveable game element in a first manner during game play and in a second manner after the controller determines a threshold number of consecutive outcomes of the same type, (see figure 4 and paragraphs 64, 65 and 74-80). For example, after a number of losing outcomes, the controller can move one or more of the reels in a direction opposite to the normal direction of rotation.

20 Another embodiment of Applicants' invention comprises a method of playing a game. The method includes placing a wager and displaying a game on a gaming device. The game display preferably includes a plurality of moveable objects. The moveable objects are preferably moved in a first manner during the game. For instance, the moveable objects may be moved

such that they all move in the same direction. The game also includes determining a game outcome, which may be a winning or losing outcome. The method also preferably includes determining the number of consecutive losing events. The moveable objects are moved in a second manner if the number of consecutive outcomes of the same type is at least a threshold number, (see figure 4 and paragraphs 64, 65 and 74-80). For example, the second manner of movement may include moving the moveable objects such that they move in different directions.

In another embodiment of Applicants' invention, a gaming device has a player input device and a moveable game element. A controller is located in the housing and is in communication with the moveable game element. The controller determines a game outcome, which may be a winning or losing outcome. The controller moves the moveable game element in a first manner during game play and allows the player to use the player input device to cause the moveable game element to move in a second manner during non-game play, (see figures 1 and 4 and paragraphs 74-80). This feature provides a game player with the illusion that they are influencing the outcome of the game.

Rejection under 35 U.S.C. § 103(a)

The Office rejected claims 1-44 and 46-68 under 35 U.S.C. §103(a) over U.S. Patent No. 6,375,570 issued to Poole in view of U.S. Patent No. 5,833,538 issued to Weiss. Applicants respectfully traverse this rejection.

To the extent the Office feels the cited references may be relevant to the pending claims, Applicants provide the following discussion.

Poole purports to disclose a video gaming device for displaying an exhibition that replaces video reels. Poole changes several video reels into a video display that can show an animated exhibition for player entertainment, (see figures 4 and 5 and column 7, lines 30-50).

5 Weiss purports to disclose an apparatus and method for automatically varying between several theoretical expectations on a game device. In response to a triggering event, the game device alters the expected outcome for a minimum duration period, (see figure 2 and column 8, lines 36-48).

10 Independent claims 69 and 79 of Applicant's application specifically require a player input device that can allow the player to cause a reel or a game element to move when a game is not being played. Neither device of Poole or Weiss, teach, disclose or suggest the use of a player input device that allows the player to cause reels or game elements to move during periods in which the game is not being played. Poole and Weiss are completely devoid of any reference to allow a player to use a player input device to move game elements in a different manner from the movement shown during regular game play.

15 The office action states that a player may move a moveable game element using a stop button. Poole discloses a stop spin button 84 in figures 4-6. The stop spin button 84 is described in column 8, lines 49-53. However, Pool does not disclose or discuss the purpose of the stop spin button. From the disclosure of Poole, it cannot be inferred that a player is allowed to move game elements when a game is not being played. The logical function of a stop button is to stop
20 a moving object. A stop button would not be used to move an object. At best, the stop spin button of Poole could only be used during game play to stop a spinning reel.

Weiss does not disclose a player input device.

Claims 70-78 and 80-91 are patentable for the reasons stated above and because they include limitations that are not disclosed in the cited references. For example, claim 70 recites enabling the player input device after a number of losing game outcomes. Neither Poole nor Weiss teach, disclose or suggest this feature.

5 Claims 83 and 84 recite steps related to disabling the player input device. Neither Poole nor Weiss teach, disclose or suggest operating a game in this manner. The Office has not cited any portion of Poole or Weiss showing the disabling of a player input device. The office action on page 6 states that it is inherent in the game machine to disable the input device. No references are cited. If the examiner is relying upon personal knowledge in the rejection, the examiner is
10 respectfully requested to provide an affidavit under 37 C.F.R. 1.107(b) in support of the rejection.

The previous Office Action states that Poole does not, “disclose determining a number of consecutive losing events.” The applicant agrees with this conclusion.

There is no teaching, disclosure or suggestion in Poole to determine a number of
15 consecutive outcomes or losing events. It has been well determined by the Federal Circuit that an obviousness rejection is not proper unless there is some suggestion in the prior art to combine the references in the manner shown by the examiner. There is no suggestion in Poole to determine a number of consecutive outcomes or losing events.

If the device of Poole was combined with the device of Weiss, the result would be a
20 gaming device that has video reels that can provide an animated video display during a game and that can alter the expected outcome of the game for a minimum duration period. The combined device would not include a player input device that allows a player to move game elements when the game is not being played.

Independent claims 92 and 106 of Applicant's application specifically require the steps of determining the number of consecutive losing events or outcomes and moving the moveable objects in a second manner if the number of consecutive outcomes of the same type is a threshold number and the game is not being played.

5 Neither Poole nor Weiss, teach, disclose or suggest counting losing events and moving the moveable objects in a different manner when the game is not being played.

Claims 93-105 and 107-114 are patentable for the reasons stated above and because they include limitations that are not disclosed in the cited references. For example, claims 95-97 recite steps related to disabling the player input device. Neither Poole nor Weiss teach, disclose
10 or suggest operating a game in this manner. The Office has not cited any portion of Poole or Weiss showing the disabling of a player input device.

Independent claim 115 of Applicant's application specifically requires the steps of determining a number of losing outcomes, moving the display means in a first manner during game play and moving the display means in a second manner after a threshold number of
15 consecutive losing outcomes.

Neither device of Poole or Weiss, teach, disclose or suggest counting losing events and moving the moveable objects in a different manner after a number of losing events has occurred. Weiss discloses in column 8, lines 15-20 counting winning outcomes.

Counting losing outcomes as shown in Applicant's invention and moving moveable
20 objects in a different manner cannot be arrived at by the combination of Poole and Weiss.

If the device of Poole was combined with the device of Weiss, the combination would require counting winning events. Counting losing events cannot be inferred or conjured up from the cited references.

Claims 116-119 are patentable for the reasons stated above and because they include limitations that are not disclosed in the cited references. For example, claim 116 recites a player input means that moves the display means in a second manner after a player activates the player input means. The Office has not cited any portion of Poole or Weiss as showing a player input means for moving a display means.

Independent claim 120 of Applicant's application specifically requires allowing a player to move moveable objects from a first position after the game is played to another position and then returning the moveable objects to the first position prior to the start of another game.

The cited references to Poole or Weiss, alone or in combination do not describe an embodiment in which a game player is allowed to control the moveable game elements.

In the Poole reference, the exhibition is controlled entirely by the gaming device. No part of the movement of the reels during the exhibition is described as being controllable by the game player. During the exhibition of Poole, the game player is only an observer, not a participant.

The present invention, in contrast to the prior art, allows a game player to feel that they have control or influence over a portion of the game by being able to move a game element or reel. In reality, the outcome of the game is not determined by the players input.

The present invention provides a game player with the illusion of participating in determining the outcome of the game and changing their luck. None of the cited references can accomplish such a goal.

Because the cited references do not teach, disclose or suggest Applicants' claims, Applicants respectfully request the Office to withdraw the §103(a) rejection.

Conclusion

For all of the above reasons, the Applicants submit that the present application is in condition for allowance. If the Examiner has any questions regarding the application or amendment, the Examiner is encouraged to call the Applicants' attorney at (775) 826-6160.

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Respectfully Submitted,

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A handwritten signature in black ink, appearing to read 'Ian F. Burns', written over a horizontal line.

Ian F. Burns
Attorney for Applicant
Registration Number: 33,297

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